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101ST CONGRESS
2d Session

SENATE

REPORT
101-293

AMENDING THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

MAY 16 (legislative day, APRIL 18), 1990.—Ordered to be printed

Mr. INOUYE, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 2354]

The Select Committee on Indian Affairs, to which was referred the bill (S. 2354) to amend the Housing and Community Development Act of 1974 to make technical corrections for grants to Indian tribes and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 2354 is to make technical amendments to the Housing and Community Development Act of 1974 to allow Indian Community Development Block Grants to be awarded to tribes during the current fiscal year. Such authority was inadvertently eliminated in the adoption of the Department of Housing and Urban Development Reform Act of 1989.

BACKGROUND

The budget for the Community Development Block Grant Program for FY 1990 is $2.9 billion, most of which is administered as entitlements to cities and counties; almost one percent of that total—$27 million—is appropriated for grants to Indian tribes during the current year.

In adopting the Department of Housing and Urban Development Reform Act of 1989 (P.L. 101-235), the Congress sought to continue the Indian Community Development Block Grant program by making tribes "entitlement entities," and making other changes

S413-3

consistent with that intention. Subsequent to enactment, review of P.L. 101-235 disclosed that technical amendments were required to authorize expenditures from the appropriation and to make other technical amendments to restore the program as it had operated prior to the enactment of the Reform Act.

This program is very important to tribes, not only for housing rehabilitation and construction, but for development of public infrastructure, construction of community facilities, and other economic development activities. In FY 1989, 85 tribes were funded in amounts ranging from $17,000 to $3.6 million. The average grant amount was $317,448, but infrastructure grants were larger.

Deadlines have now passed for applications by tribes for current year funding, and applications are now subject to review and approval. No action can be taken upon them, however, until the technical amendments are adopted to authorize the grants to be made.

Legislative History

S. 2354 was introduced on March 20, 1990 by Senator McCain for himself, and Senators Inouye, Burdick, Conrad, Murkowski, Gorton, and DeConcini, and was referred to the Select Committee on Indian Affairs.

Prior to action by the Select Committee on Indian Affairs, the Department of Housing and Urban Development advised the Committee that the Department supported the adoption of S. 2354.

Committee Recommendation and Tabulation of Vote

The Select Committee on Indian Affairs, in open business session on May 1, 1990, by an unanimous vote and with a quorum present, recommends that the Senate pass S. 2354.

Section-by-Section Analysis

Section 1 amends the Housing and Community Development Act of 1974 by making technical corrections to sections 109, 106, and 107 to provide that not less than one percent of funds allocated under section 103 will be reserved for grants to Indian tribes prior to making allocations to entitlement communities and states.

Section 2 repeals subsection (c) of section 702 of the Department of Housing and Urban Development Reform Act and replaces "1991" with "1990" in subsection (e) of section 702.

Cost and Budgetary Considerations

The cost estimate of S. 2354 as evaluated by the Congressional Budget Office, is set forth below:

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 4, 1990.

Hon. Daniel K. Inouye,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 2354, a bill to amend the Housing and Community Development Act of 1974 to make technical corrections for grants to

Indian tribes, and for other purposes, as ordered reported by the Senate Select Committee on Indian Affairs, May 1, 1990. CBO estimates that enactment of this bill would result in no cost to the federal government or to state and local governments.

S. 2354 would allocate at least 1 percent of funds under the Community Development Block Grant (CDBG) program to Indian tribes. (This would amount to about $30 million a year at the current funding level.) Prior to enactment of the Department of Housing and Urban Development Reform Act of 1989, Indian tribes received CDBG grants through the Secretary's Discretionary Fund. The Reform Act eliminated the Discretionary Fund, and along with it, removed the authorization for grants to Indian tribes. This bill would restore tribes' eligibility for the program.

Enactment of S. 2354 would not result in additional costs to the federal government, since the allocation to tribes would come from the existing CDBG authorization. We do not expect that additional funds would be required, since tribes already received almost 1 percent of CDBG funds prior to passage of the Reform Act in December 1989.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Marta Morgan, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 2354 will have no regulatory impact or paperwork impact.

EXECUTIVE COMMUNICATIONS

The Committee is advised that the Department of Housing and Urban Development supports S. 2354, but no formal communication has yet been received from the Department.

CHANGES TO EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 2354 are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

§ 5301. Congressional findings and declaration of purpose

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(c) DECENT HOUSING, SUITABLE LIVING ENVIRONMENT, AND ECONOMIC OPPORTUNITIES FOR PERSONS OF LOW AND MODERATE INCOME; COMMUNITY DEVELOPMENT ACTIVITIES WHICH MAY BE SUPPORTED BY FEDERAL ASSISTANCE.—The primary objective of this chapter is the development of viable urban communities, by providing decent

housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this primary objective, the Federal assistance provided *to States and units of local government* in this chapter is for the support of community development activities which are directed toward the following specific objectives—

* * * * * * *

§ 5306. Allocation and distribution of funds

(a) AMOUNTS ALLOCATED TO METROPOLITAN CITIES AND URBAN COUNTIES; LIMITATIONS ON AMOUNT OF ANNUAL GRANTS.—**[**Of the amount approved in an appropriation Act under section 5303 of this title for grants in any year (excluding the amounts provided for use in accordance with section 5307 of this title and section 5318 of this title), 70 per centum shall be allocated by the Secretary to metropolitan cities and urban counties and Indian tribes. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b) of this section. Indian tribes shall receive grants from such allocation pursuant to subsection (b)(7) of this section.**]**

(1) For each fiscal year, of the amount approved in an appropriation Act under section 103 for grants in any year, the Secretary shall reserve for grants to Indian tribes not less than one percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment. Notwithstanding any other provision of this Act, such grants to Indian tribes shall not be subject to the requirements of section 104, except subsections (f), (g), and (k) of such section.

(2) After reserving such amounts for Indian tribes, the Secretary shall allocate amounts provided for use in accordance with section 107.

(3) Of the amount remaining after allocations pursuant to paragraphs (1) and (2), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b).

(b) COMPUTATION OF AMOUNT ALLOCATED TO METROPOLITAN CITIES AND URBAN COUNTIES.—

(1) **[**After taking into account the set-aside for Indian tribes under paragraph (7), the**]** *The* Secretary shall determine the amount to be allocated to each metropolitan city which shall be the greater of an amount that bears the same ratio to the allocation for all metropolitan areas as either—

* * * * * * *

(2) [After taking into account the set-aside for Indian tribes under paragraph (7), the] *The* Secretary shall determine the amount to be allocated to each urban county, which shall be the greater of an amount that bears the same ratio to the allocation for all metropolitan areas as either—

* * * * * * *

[(7)(A) For each fiscal year, the Secretary shall reserve for grants to Indian tribes, from amounts approved in appropriation Acts under section 5303 of this title for grants for the year under subsection (a) of this section, not more than 1 percent of the amounts appropriated under such section.

[(B) The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.]

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(d) ALLOCATION AMONG STATES FOR NONENTITLEMENT AREAS; AMOUNT AND CALCULATION OF GRANTS; DISTRIBUTIONS BY STATE OR SECRETARY; CERTAIN DISTRIBUTIONS MADE PURSUANT TO PRIOR PROVISIONS; CERTIFICATIONS REQUIRED BY GOVERNOR ENUMERATED; RESPONSIBILITY FOR ADMINISTRATION AND ADMINISTRATIVE EXPENSES; REALLOCATION; EXCLUSION OF INDIAN TRIBES IN CERTAIN COMPUTATIONS.—

(1) Of the amount approved in an appropriation Act under section 5303 of this title for grants in any year (excluding the amounts provided for use in accordance with *paragraphs (1) and (2) of subsection (a) of section 5306* [section 5307 of this title and section 5318] of this title), 30 per centum shall be allocated among the States for use in nonentitlement areas. The allocation for each State shall be the greater of an amount that bears the same ratio to the allocation for such areas of all States available under this subparagraph as either—

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§ 5307. Special purpose grants

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(e) SATISFACTORY ASSURANCES REQUIRED, SPECIAL ASSURANCES REQUIRED OF INDIAN TRIBES.—

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(2) No grant may be made to an Indian tribe under this section, *section 5306(a)(1)* or section 5318 of this title unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with Title II of Public Law 90-284 [25 U.S.C.A. § 1301 et seq.]. The Secretary may waive, in connection with grants to Indian tribes, the provisions of section 5309 of this title and section 5310 of this title.

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SEC. 702. CDBG GRANTS TO INDIAN TRIBES.

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[(c) OFFICE OF INDIAN AND ALASKA NATIVE PROGRAMS.—The Secretary of Housing and Urban Development shall administer grants to Indian tribes under title I of the Housing and Community Development Act of 1974 through the Office of Indian and Alaska Native Programs of the Department of Housing and Urban Development.]

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(e) APPLICABILITY.—The amendments made by this section shall apply to amounts approved in any appropriation Act under section 103 of the Housing and Community Development Act of 1974 for fiscal year [1991] *1990* and each fiscal year thereafter.

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